

# KNOX COUNTY COMMISSION

## Regular Meeting

Tuesday – May 12, 2009 – 4:00 p.m.

The regular monthly meeting of the Knox County Commission was held on Tuesday, May 12, 2009, at 4:00 p.m., at the county courthouse, 62 Union Street, Rockland, Maine. Administrative Assistant Candice Richards was present to record the minutes of the meeting.

Commission members present were: Anne Beebe-Center, Commissioner District #1, Richard L. Parent, Jr., Commissioner District #2, and Roger A. Moody, Commissioner District #3. County staff present included: County Administrator Andrew Hart, Administrative Assistant Candice Richards, Finance Director Kathy Robinson, Sheriff Donna Dennison, and IT Director Jeff Lake.

Also present were: David Martucci, Assessor’s Agent for the Town of Thomaston; Peter Lammert, Assessor for the Town of Thomaston; Frederick Newcomb III, Esq., representing Thomaston Auction Properties, L.L.C.; and Kaja Veilleux, owner of Thomaston Auction Properties, L.L.C.

Regular Meeting – Agenda		
Tuesday – May 12, 2009 – 4:00 p.m.		
I.	4:00	Meeting Called To Order
II.	4:01	Public Comment - Public Comment during other portions of the meeting will only be granted by permission of the chair.
III.	4:15	Consent Items
		1. Approve Consent Items as Presented:
		i. Approve Agenda - Non Agenda Items Only Permitted if Emergency in Nature.
		ii. Approve Minutes of Regular Meeting of April 14, 2009.
		iii. Approve Minutes of Special Meeting Work Session of April 14, 2009.
		iv. Accept Monthly Written Departmental Reports.
		v. Approve Investment Withdrawals.
		vi. Approve Budget Line Transfers.
IV.	4:20	Tax Abatement Appeal
		1. Thomaston Auction Properties, L.L.C. v. Town of Thomaston.
V.	5:00	Action Items
		1. Act on Approval of Transfer of Forfeited Assets of one Winchester Model 94 30-30 Rifle to Knox County in <i>State of Maine v. Edward Rogers</i> (D. Dennison, A. Hart).
		2. Act on Request by Sheriff Dennison to Utilize Funding from the State Forfeiture Account in the Amount of \$3,996.00 to Purchase Eight Radar Units (D. Dennison).
		3. Act on Request by Finance Director to Determine that Outstanding Court Ordered Board is Uncollectible (K. Robinson).
		4. Act on Approval of Transfer of \$8,488.36 from the Airport Security Fund Balance (400-31200) to the Airport Fund Balance (400-31100) for 2008 and to Collapse the Airport Security Fund Balance (400-31200) into the Airport Fund Balance (400-31100) (K. Robinson).
		5. Act on Approval of Job Description for Chief Information Officer/Chief Security Officer (A. Hart, J. Lake).
		6. Act on Approval of Payment of Back-Overtime for a Re-Classified Employee (A. Hart, J. Lake).
VI.	5:30	Other Business
VII.	5:35	Executive Session
		1. Convene in Executive Session for Consultation with Legal Counsel pursuant to 1 M.R.S.A. §405(6)(E).
		2. Convene in Executive Session to discuss a Personnel Matter pursuant to 1 M.R.S.A. §405(6)(A).
VIII.	6:05	Adjourn

- I.

Meeting Called to Order

Commission Chair Anne Beebe-Center called the May 12, 2009 regular meeting of the Knox County Commission to order at 4:00 p.m.
- II.

Public Comment

Commissioner Anne Beebe-Center asked for public comment. There was none.

III. Consent Items

1. Approve Consent Items as Presented:

i. Approve Agenda - Non Agenda Items Only Permitted if Emergency in Nature.

ii. Approve Minutes of Regular Meeting of April 14, 2009.

iii. Approve Minutes of Special Meeting Work Session of April 14, 2009.

iv. Accept Monthly Written Departmental Reports.

v. Approve Investment Withdrawals.

vi. Approve Budget Line Transfers.
- A motion was made by Commissioner Richard Parent to approve the consent items as presented. The motion was seconded by Commissioner Roger Moody.

Commissioner Roger Moody stated that in the EMA monthly report, EMA Director Ray Sisk seemed to be asking for a Commissioner to be on the County Hazard Mitigation Team.

Commissioner Anne Beebe-Center stated that Director Sisk was looking for a Commissioner to attend the “kickoff” meeting.

Commissioner Roger Moody asked if this would be a short-term assignment.

Commissioner Anne Beebe-Center stated that it was.

Commissioner Roger Moody stated that he would volunteer to go since Commissioner Parent was already involved with the Space Utilization and Needs Assessment process.

County Administrator Andrew Hart stated that in EMA Director Ray Sisk’s report, Mr. Sisk was looking for a commissioner to help work on the plan as a member of the planning team, not just be present at the “kick-off” meeting. The date for the “kickoff” meeting has not been set yet. He added that since the first meeting has not happened yet, he was unaware of the schedule involved.

Referring to the Finance report entitled “Investment Withdrawals”, Commissioner Roger Moody stated that would it make more sense to call it “Reserve fund withdrawals” to avoid confusion.

Finance Director Kathy Robins stated that she was fine with that change.

- A vote was taken with all in favor.

Investment Withdrawals:

Courthouse Computer	20000812660	\$8,847.00
DA Computer	20000812710	\$564.04
Forfeiture Money – Federal	20000812860	\$21,824.00
Forfeiture Money – State	20000812870	\$27,611.00
Legal Expense	20000812650	\$4,355.80
Sheriff Vehicles	20000812770	\$2,875.00
	Total	\$66,076.04

Budget Line Transfers:

Building M. Gas, Oil, Grease	006004-54650	\$66.00	Auto repair	006004-54655	\$351.00
Building M. Ground Maint.	006004-54590	\$285.00			
Communications Dispatchers	518003-53812	\$2,644.00	Resignation/Termin.	518003-53940	\$2,644.00
Communications Lodging	518004-54115	\$321.00	Airfare	518004-54106	\$321.00
Executive Advertising	004004-54510	\$2,000.00	Dues & Registration	004004-54515	\$4,000.00
Executive Equipment Repairs	004004-54575	\$500.00			
Executive Computer Repairs	004004-54585	\$500.00			
Executive Equipment	004007-57335	\$1,000.00			
Finance Municipal Bond	005004-54426	\$33.00	Overtime	005003-53800	\$33.00
Jail Asst. Corr. Supv.	008003-53288	28640.00	Jail Administrator	008003-53280	4696.00
Jail PT Food Services	008003-53820	17484.00	Asst. Jail Admin.	008003-53281	4969.00
Jail PT	008003-53820	50000.00	Clerical	008003-53286	2387.00

Jail Health Insurance	008003-53910	28173.00	Records	008003-53292	2428.00
Jail ICMA	008003-53960	2037.00	Correction Spv.	008003-53287	7050.00
Jail Boarding	008004-54625	40000.00	Program	008003-53282	4966.00
Jail Inmate Programs	008004-54645	7222.00	Corrections Officers	008003-53289	11028.00
Jail Auto Repairs	008004-54655	1000.00	Food Services	008003-53283	24302.00
Jail Pagers	008004-54320	300.00	Transport Sergeant	008003-53290	1874.00
Jail Building Maint.	008004-54595	5000.00	Asst. Transport	008003-53291	2461.00
Jail Insurance	008004-54420	13014.00	Holiday Overtime	008003-53805	39832.00
Jail Institutional Supp.	008005-55320	4000.00	Workers Comp	008003-53920	2369.00
Jail Maintenance	008005-55325	2000.00	Consulting	008004-54052	500.00
Jail Medical Supp.	008005-55330	3000.00	Gas, Oil, Grease	008004-54650	1200.00
Jail Office Supplies	008005-55335	2000.00	Electrical	008004-54555	13306.00
Jail Photo Supplies	008005-55340	250.00	Equipment Rental	008004-54570	100.00
Jail Printing	008005-55347	1000.00	TAN	008004-54010	21000.00
Jail Computer Supplies	008005-55385	1500.00	Fuel	008005-55205	52176.00
Jail Tools	008005-55610	500.00	Community Correct.	008004-54645	72276.00
Jail Furniture	008007-57325	1600.00	Boarding	008004-54625	8000.00
Jail Equipment	008007-57335	43700.00			
Jail Vehicles	008007-57345	16000.00			
Jail Computers	008007-54350	8500.00			

Sheriff Gas, Oil, Grease	011004-54650	1500.00	Tutorign & Councel.	011004-54645	1500.00
Sheriff Patrol Deputies	011003-53316	11530.00	Detectives	011003-53319	11530.00

Total:	\$297,299.00	Total:	\$297,299.00
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IV. Tax Abatement Appeal Hearing

1. Thomaston Auction Properties, L.L.C. v. Town of Thomaston

Commissioner Anne Beebe-Center asked that anyone speaking introduce themselves for the record. She asked which side wanted to speak first.

Dave Martucci asked to speak first. He stated that he was the Assessor’s Agent for the Town of Thomaston. One of his assessors, Peter Lambert, was also present at the meeting. He started off by stating that he had a procedural issue that needed to be discussed first. The assessors of Thomaston follow the outline of Property Tax Bulletin Number 10, which is the “Property Tax Abatement and Appeal Procedures”, and was included in section 10 of the binder he had provided to the Commission for the hearing. Section four of this Bulletin No. 10 contains “Statutory Provisions”, which covers information on appeals to County Commissioners, taken from Title 36 MRSA, Section 844. This refers to properties valued at more than \$500,000.00 dollars. Sub-section 2 of Section 844 states:

“A taxpayer must pay an amount of current taxes equal to the amount of taxes paid in the next preceding year or the amount of taxes in the current tax year not in dispute, whichever is greater, by or after the due date in order to enter into an appeal under this section...”

Mr. Martucci stated that he computed that amount and what it should have been was \$4,962.94. He added that he had provided a letter from the Treasurer of Thomaston certifying that these taxes have not been paid. He stated that before the hearing got underway, it would be appropriate for the Commission to consider that the process was not followed.

Commissioner Anne Beebe-Center asked if Mr. Martucci was saying that in order for the abatement to take place, some things should have been done that never took place.

Mr. Martucci replied in the affirmative. He stated that Thomaston Auction Properties has not paid their taxes for the year in question, and have not made arrangements to do so. Half of the taxes were due in December. The law says that they have to pay either the amount due this year, or the amount not in dispute that is due. He stated that he took value that Thomaston Auction Properties was claiming, the \$618,000.00, computed what the tax on that amount would have been, divided it in two because there are two payments (December and June). The larger of the two amounts was the amount of taxes paid last year. It should have been paid to proceed with the abatement appeal.

Fred Newcomb introduced himself as the attorney representing Thomaston Auction Properties, LLC. He stated that in response to what Mr. Martucci had just said, there is an exception to that if the municipality and the tax payer have reached an agreement. He stated that he and his clients had appeared before the Thomaston Board of Assessors on February 24<sup>th</sup> and were told that an appeal could be made to the County Commission. This was also received in writing from the

Board of Assessors. This should mean that this stops the Town of Thomaston from making the argument that taxes need to be paid before an abatement can be requested from the Commission. The tax payer has been hesitant to pay the taxes because the amount of taxes are in dispute because the preceding valuation was only \$314,000.00.

Mr. Martucci responded that the requirement for paying the taxes is not incumbent on a request for an abatement. He stated that he is only required to notify someone going through the abatement process that they have a certain amount of time to go before the Commission for an appeal. The law is different for an appeal to the town vs. an appeal to the County Commission. He stated that the provision he had mentioned only appears under “County Commissioners” in the statute. There is nothing in the law about abatement appeals at the town level. Mr. Martucci added that the taxpayer did not contest the amount of taxes owed the previous year, so they should have at least paid that amount before embarking on this appeal. No taxes have been paid this year.

Kaja Veilleux introduced himself as the owner of Thomaston Auction Properties, LLC. He stated that his company has always been on time paying the tax bills and that he was more than happy to pay tax bills until he received the bill for this year, which was three and a half times more than the year before. He stated that the members of the company consulted an attorney and decided to appeal to the Commission. He added that a check was already printed for the amount of last year’s taxes. He stated that he had no problem paying taxes, it was the amount that he had a problem with.

Mr. Newcomb stood and showed the members of the Commission the letter he had been referring to, which was written by Mr. Martucci to Thomaston Auction Properties, LLC, informing them that they had sixty days to appeal to the County Commission. The town thereby gave up the right to make the argument that the taxpayer should have paid the taxes before appealing to the Commission. He added that bringing up this issue now was the wrong time to bring up the argument. If it had been mentioned sooner, Thomaston Auction Properties, LLC would have been able to pay the taxes before the Commission meeting.

Mr. Martucci stated that he apologized for not having informed everyone of this issue earlier. He stated that it had only come to his attention a couple of days ago when he was making sure that he had everything together for the Commission. He stated that he is not an expert on County Commission appeals.

Commissioner Anne Beebe-Center commented that the Commission has had a number of appeals from Thomaston. She asked Mr. Martucci if this had ever happened before.

Mr. Martucci replied that he did not have any knowledge of this happening before. Generally speaking, the values are well under \$500,000.00.

Commissioner Roger Moody stated that he wanted to ask a question about Mr. Martucci’s letter, dated February 24, 2009, in which the Thomaston Auction Properties, LLC was told they had sixty days to appeal decision to the County Commission. He stated that this Commission meeting was beyond sixty days from February 24<sup>th</sup>.

Mr. Martucci stated that the appeal was filed within the sixty days, so that was done as it should have been. He added that he has never come across this situation before. The information was just something he had stumbled upon a couple days before when looking over his materials. He added that he supposed he should be more up to date on all the little details of Bulletin #10, including County-level and State-level appeals, and other issues that have never come up before. Generally, if a property is over \$500,000.00 it is over \$1 million dollars. Appeals for amounts that high go before the state and he does not handle those.

Commissioner Anne Beebe-Center stated that the Commission seemed to have two options: the Commission could either ask for a continuance to get legal counsel on if the Commission should or should not hear the appeal before the taxes are paid, or the Commission could ask that the taxes be paid as it they should have been, and reschedule the abatement hearing. She added that she did not know if it would be legal to proceed with an abatement hearing.

Mr. Martucci commented that he did not know if it would be legal, either. He added that he is not authorized to accept payment and that any payment would have to be arranged with the town treasurer.

Commissioner Anne Beebe-Center stated that she believed that the Commission needed to ask both parties for some time to check with the County lawyer about the legal sequence of actions.

Mr. Newcomb asked if he could make a suggestion. He stated that he had already arranged for witnesses to attend the hearing who are from out of town, so the Commission could still hear the appeal side while the witnesses are still in town. The town had consented to going forward with the abatement even though part of the taxes had been due. He stated that they could present their evidence and then if it turns out that the Commission should not have heard the evidence, it will be as if it was never heard.

Commissioner Anne Beebe-Center asked the other members of the Commission for their opinion on what the Commission should do.

Commissioner Richard Parent asked if Mr. Martucci had any opposition to what Mr. Newcomb had suggested.

Mr. Martucci stated that he would oppose it. He stated that if you read further in what Tax Bulletin No. 10 says (*Title 36 M RSA, Section 844, Sub-section 2*):

“If an appeal is in process upon expiration of a due date for payment of taxes *for any tax year* in a particular municipality, without the appropriate amount of taxes having been paid, the appeal process must be suspended until the appropriate amount of taxes, together with any accrued interest and costs, has been paid.”

Mr. Martucci stated that continuing would be an understanding that the appeals process has been started, which it has not, as far as he was concerned, because Thomaston Auction Properties, LLC has not paid their taxes. He commented that he did not know the legal issues. He stated that the Bulletin was from the State Property Tax Department. He stated that he was more than willing to move forward, but that he believed that if that happened, it would compound the problem because the Bulletin states that anything in process has to be suspended. Suspending or dismissing are the only options.

Mr. Newcomb stated that Thomaston Auction Properties, LLC would rather have it suspended rather than dismissed, pay the taxes, and then come back at a later date. He stated that since the statute is worded that way, that perhaps this was the better option.

Commissioner Roger Moody stated that the next sentence in Bulletin 10, beyond what Mr. Martucci had read states:

“...the municipal officials and the Taxpayer may mutually agree to a written schedule for payment of taxes due, in which case, the appeal may proceed provided taxes are paid in accordance with that written schedule for tax payment.”

Commissioner Roger Moody asked if when it says “officials” that it meant selectmen.

Mr. Newcomb replied that it could be the selectmen or the assessors. He stated that Thomaston Auction Properties, LLC was lead to believe that this appeal was appropriate since they had received the letter informing them that they could appeal to the Commission. The appeal is already in process but if the Commission would rather that the taxes were paid and then come back, that could be done.

- A motion was made by Commissioner Richard Parent to table the agenda item until the taxes could be paid and until the Commission could check with the County lawyer regarding this issue. The motion was seconded by Commissioner Roger Moody.

Commissioner Roger Moody stated that the intent should be to get into a process that allows for resolution. He stated that unless the correct procedure is followed, the Commission embroiled in a tangle that would cause the Commission to regret having proceeded.

County Administrator Andrew Hart stated that he was not sure why the County should pay to consult an attorney about this issue if the taxes are going to be paid before the Commission hears the appeal. It is a moot point if Thomaston Auction Properties, LLC is going to negotiate the taxes with the towns and get that taken care of. He suggested that it should be up to the town or the taxpayer to make sure they are following the law. It is something that the town and taxpayer should have figured out before coming before the Commission.

Commissioner Anne Beebe-Center stated that since the taxes have not been paid, it should have not gone far enough to be before the Commission. She stated that she was not sure what held more weight, either that the taxes should have been paid, or the statute saying that the town and taxpayer can negotiate repayment of taxes. She added that since this is the first time this has

happened, and it is unknown if it would happen again, it would be good to know what the Commission's responsibilities are and what should be done if it happens again.

County Administrator Andrew Hart stated that he was just unsure why the County was incurring the expense for something that the County did not cause.

Commissioner Anne Beebe-Center stated that it was because we did not know the answer, and probably should have.

County Administrator Andrew Hart stated that it should have not even come to this point because it was no different than getting an incomplete application. The parties involved should have made sure everything was done to the extent of the law.

Mr. Martucci stated that the County application does not have any question on it about whether or not the taxes have been paid. He stated that he was not a lawyer and that he had just stumbled upon the information a couple days before. If this is a legal issue, it should be checked.

Mr. Veilleux stated that he could have money delivered to the town instantly. He added that he wanted it to be taken care of, and that he just need to know the total amount he should pay. If the town had notified them that the nonpayment was going to be a problem, the town could have had the check already.

Mr. Martucci stated that the taxpayer was notified after the December payment was delinquent. Under State law, the town is not even required to send out tax bills. It is just a courtesy. It is the taxpayers responsibility to be aware that the taxes are due, when they are due, and how much is due. He added that if he had known about this issue a week or two before this hearing, he would have notified the Commissioner that the issue existed before moving forward. He stated that when he handed in his evidence to the Commission he had no idea that the issue existed. It was only when he was prepping for the meeting, and reviewing the county procedures, that he stumbled upon the information.

Commissioner Roger Moody stated that he believed that the next step would be for the taxpayer and the Board of Assessors to reach an agreement.

Mr. Martucci stated that the Board of Assessors does not collect taxes. Taxes are collected by the tax collector, under the offices of the Board of Selectmen. For any arrangements to pay taxes, the taxpayer has to talk to town manager/tax collector. It is a completely different department from the assessors.

Mr. Newcomb stated that there are a couple of issues. There is a question of what the actual due dates are. Thomaston, along with other municipalities, are cutting the tax bills in half. The due date for the final payment, due in June, has not happened yet. The town should be more sensitive to the notice of appealing rights to the Commission that is given to the taxpayer. This notice has weight. The town should not be able to tell the taxpayer that they have the right to appeal and then at the appeal say that the taxpayer does not have the right because the taxpayer has not paid their December taxes. He stated that this is not what the notice from the town said. If the town does not want taxpayers to appeal until after paying their taxes, that is what the notice should say. After the town gave the right to appeal back in February, they should not be able to change their minds.

Peter Lammert, one of the three assessors for the Town of Thomaston, stated that the form letter in question is sent to the taxpayer so that every person that comes before the Board of Assessors will know what is next. What is unique about this situation is the dollar amount. He added that he did not know if Mr. Martucci automatically sends out the letter to anyone whose appeal was denied so that they do not miss any of the sixty days that they have to appeal to the County Commission. He added that the due dates for taxes are set at the town meetings.

Commissioner Roger Moody stated that he was still wrestling with how to handle this. He stated that there were a number of people who had assembled for the hearing. He stated that he was trying to protect the Commission against any unforeseen consequence of hearing the appeal today if it proceeds. It can be very complicated. He stated that it would be helpful to have time to think about it and understand it. He added that he did not want to complete a misstep from hearing the appeal today and that he was not aware enough of the legal options to be able to act now.

Commissioner Richard Parent stated that he was sorry that people had assembled to speak on the taxpayer's behalf, but that he did not feel comfortable hearing the arguments today.

- A vote was taken with all in favor.

Commissioner Anne Beebe-Center stated that the Administration Office would be in touch with both parties within a week regarding a date to meet again.

County Administrator Andrew Hart stated that if it was a Special Commission meeting, it might be a morning meeting because it would be just one agenda item.

## V. Action Items

1. Act on Approval of Transfer of Forfeited Assets of one Winchester Model 94 30-30 Rifle to Knox County in *State of Maine v. Edward Rogers* (D. Dennison, A. Hart).

- A motion was made by Commissioner Roger Moody to approve the transfer of forfeited assets of one Winchester Model 94 30-30 Rifle to Knox County in *State of Maine v. Edward Rogers*. The motion was seconded by Commissioner Richard Parent. A vote was taken with all in favor.

2. Act on Request by Sheriff Dennison to Utilize Funding from the State Forfeiture Account in the Amount of \$3,996.00 to Purchase Eight Radar Units (D. Dennison).

- A motion was made by Commissioner Richard Parent to approve utilizing funding from the State Forfeiture account in the amount of \$3,996.00 to purchase eight radar units. The motion was seconded by Commissioner Roger Moody. A vote was taken with all in favor.

3. Act on Request by Finance Director to Determine that Outstanding Court Ordered Board is Uncollectible (K. Robinson).

Finance Director Kathy Robinson explained that at the December 11, 2007 Commission meeting, the Commission voted to determine \$2,825.00 as uncollectable for Court Ordered Board. There were two people who were not included in that batch because they had established a repayment plan. One person paid in full, but the other is still mostly unpaid, with no way to pay the rest of it. Ms. Robinson recommended that the Commission approve the outstanding balance of \$300.00 as uncollectable to remove it from the County books.

- A motion was made by Commissioner Roger Moody to determine that outstanding court ordered board is uncollectible. The motion was seconded by Commissioner Richard Parent. A vote was taken with all in favor.

4. Act on Approval of Transfer of \$8,488.36 from the Airport Security Fund Balance (400-31200) to the Airport Fund Balance (400-31100) for 2008 and to Collapse the Airport Security Fund Balance (400-31200) into the Airport Fund Balance (400-31200) (K. Robinson).

- A motion was made by Commissioner Richard Parent to approve of the transfer of \$8,488.36 from the Airport Security Fund Balance (400-31200) to the Airport Fund Balance (400-31100) for 2008 and to Collapse the Airport Security Fund Balance (400-31200) into the Airport Fund Balance (400-31200). The motion was seconded by Commissioner Roger Moody. A vote was taken with all in favor.

5. Act on Approval of Job Description for Chief Information Officer/Chief Security Officer (A. Hart, J. Lake).

Commissioner Anne Beebe-Center commented that the County previously contracted with Sage and it was Sage that suggested some of the changes to the job description.

- A motion was made by Commissioner Roger Moody to approve the job description for the CIO/CSO. The motion was seconded by Commissioner Richard Parent. A vote was taken with all in favor.

6. Act on Approval of Payment of Back-Overtime for a Re-Classified Employee (A. Hart, J. Lake).

County Administrator Andrew Hart stated that the Commission reclassified the Technical Support Specialist position at the last meeting. The job description was changed to an hourly position because it was determined that it did not meet the qualifications for an exempt position. Now that the position has been changed, the employee needs to be paid or the overtime he had worked during the time he had been classified as salaried. The County's legal counsel has been consulted on this to make sure the County was making the correct determination. The amount of overtime owed to the employee is 135 hours, paid at the overtime rate, which totals \$3,738.99. There should be no further financial ramifications from this.

County Administrator Andrew Hart added that he would be looking at all departments at the exempt positions to see if they also should be changed. There are three or four currently being

looked at that may need to come before the Commission for reclassification. The money to do this will come from contingency.

Commissioner Richard Parent asked if this change was okay with the employee being reclassified.

County Administrator Andrew Hart replied that it was.

IT Director Jeff Lake stated that although it was an issue of semantics, he asked that the payment of overtime because of reclassification not be referred to as a settlement. He stated that the County is just doing what is right under the Department of Labor law. If the County can show that it has done its due diligence in doing what is right for the employee, then should other employees be reclassified, the County can show that it has done what is right for the employee.

Commissioner Roger Moody asked how far back do the accrued overtime hours go. He asked if it went back to the date of hire.

IT Director Jeff Lake stated that the hours went back to March 10<sup>th</sup> of 2008 because that is the employee's date of hire. Other employees may go back 3 or 7 years because they have worked for the County longer.

- A motion was made by Commissioner Richard Parent to approve the payment of back-overtime for a re-classified employee. The motion was seconded by Commissioner Roger Moody.

Commissioner Roger Moody stated that he has experienced this before. In his experience, there had been an option to either take back-pay or to take comp time at the overtime rate. He asked if this was possible in this case.

County Administrator Andrew Hart stated that legal counsel did not give any indication of that being a possibility.

- A vote was taken with all in favor.

## **VI. Other Business**

There was no other business.

## **VII. Executive Session**

1. Convene in Executive Session for Consultation with Legal Counsel pursuant to 1 M.R.S.A. §405(6)(E).

- A motion was made by Commissioner Richard Parent to go into executive session pursuant to 1 M.R.S.A. §405(6)(E) for consultation with legal counsel and 1 M.R.S.A. §405(6)(A) to discuss a personnel matter. The motion was seconded by Commissioner Roger Moody. A vote was taken with all in favor.

The executive session convened at 4:58 p.m.

2. Convene in Executive Session to Discuss a Personnel Matter pursuant to 1 M.R.S.A. §405(6)(A).

- A motion was made by Commissioner Richard Parent to go out of executive session. The motion was seconded by Commissioner Roger Moody. A vote was taken with all in favor.

The executive session concluded at 6:25 p.m.

## **VIII. Adjourn**

- A motion was made by Commissioner Richard Parent to adjourn the meeting. The motion was seconded by Commissioner Roger Moody. A vote was taken with all in favor.

The meeting adjourned at 6:26 p.m.

Respectfully submitted,

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Candice Richards



**The Knox County Commission approved these minutes at their regular meeting held on June 9, 2009.**

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Anne H. Beebe-Center, Chair – Commissioner District #1

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Richard L. Parent, Jr. – Commissioner District #2

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Roger A. Moody – Commissioner District #3